

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

VIRGIN MOBILE USA, LLC)

File No. ITC-214-2002-

Application for Global Authority Pursuant to)
Section 214 of the Communications Act)
of 1934, as amended, to Operate as an)
International Resale Carrier)
Between the United States and Various)
International Points)

APPLICATION

Virgin Mobile USA, LLC (“VMU” or “Applicant”), by its undersigned counsel, hereby requests global resale authority under Section 214 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214, and Section 63.18 of the Commission's Rules, 47 C.F.R. § 63.18, to provide international telecommunications services between the United States and international points.

I. The Applicant

VMU is a limited liability company organized under the laws of the State of Delaware. VMU is not a foreign carrier within the meaning of Section 63.09(d) of the Commission’s Rules, 47 C.F.R. § 63.09(d); however, VMU is affiliated with foreign carriers within the meaning of Section 63.09(e) of the Commission’s Rules, 47 C.F.R. § 63.09(e). While VMU is affiliated with certain foreign carriers, as described in greater detail below, none of them are dominant providers of telecommunications services in a relevant market in a destination country.¹ Therefore, VMU lacks sufficient market power on the foreign end of these routes to affect

¹ See Attachment A.

competition adversely in the U.S. telecommunications market and VMU qualifies for the presumption of non-dominance under Section 63.10(a)(1) of the Commission's Rules, 47 C.F.R. § 63.10(a)(1).

II. Public Interest Considerations

VMU believes that the added competition its entry will bring to the market will benefit the consumers of United States-overseas services. These benefits include competitive pricing and increased availability of a variety of service options. Therefore, a grant of this Application will further the public interest.

III. Information Required by Section 63.18

VMU submits the following information, as required by Section 63.18 of the Commission's rules, in support of its request for Section 214 authorization:

- (a) Name, address and telephone number of Applicant:

Virgin Mobile USA, LLC
22 Fourth Street, 8th Floor
San Francisco, CA 94103
Tel: (415) 932-5400
Fax: (415) 932-5401

- (b) Applicant is organized under the laws of the State of Delaware.

- (c) Correspondence concerning this application should be sent to:

Helen E. Disenhaus, Esq.
Jeanne W. Stockman, Esq.
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

with a copy to:

Peter Lurie, Vice President General Counsel
Virgin Mobile USA, LLC
180 South Street - #101
New Providence, NJ 07974
Tel: (908) 508-0721
Fax: (415) 358-4999

- (d) VMU has not previously received authority under Section 214 of Act. Upon grant of this Application, VMU will become an authorized non-dominant reseller with global authority, pursuant to Section 214 of the Act and the Commission's Rules.
- (e)
 - (1) Because VMU is not seeking global facilities-based authority pursuant to Section 63.18(e)(1) of the Commission's rules, this Section is not applicable.
 - (2) VMU requests Section 214 authority to resell the international services of authorized U.S. common carriers pursuant to Section 63.18(e)(2) of the Commission's Rules. VMU requests such authorization for all international routes authorized by the Commission. VMU certifies that it will comply with the terms and conditions contained in Section 63.21 and 63.23 of the Commission's Rules.
- (f) VMU seeks the authority to provide only the services referenced under subparagraph (e)(2) of Section 63.18 of the Commission's Rules.
- (g) Given that VMU is not seeking facilities-based authority pursuant to Section 63.18(e)(4) of the Commission's Rules, this Section is not applicable.
- (h) Information regarding holders of 10% or greater direct or indirect interest in Applicant is as follows:

Name:	Sprint Ventures, Inc. ("Sprint Ventures")
Address:	c/o Sprint Spectrum L.P. 6330 Sprint Parkway Overland Park, KS 66251
Percentage Held:	50% direct interest in VMU
Citizenship:	U.S.
Principal Business:	Telecommunications Services

Name:	Bluebottle USA Holdings L.P. ("Bluebottle LP")
Address:	15 East 32 nd Street, 8 th Floor New York, NY 10016
Percentage Held:	Approximate 50% direct interest in VMU
Citizenship:	U.S.
Principal Business:	Investment Company

Name: Sprint Corporation
Address: 2330 Shawnee Mission Parkway
Westwood, KS 66205
Percentage Held: 100% direct interest in Sprint Ventures, yielding 50%
indirect interest in VMU
Citizenship: U.S.
Principal Business: Holding Company

Name: Bluebottle USA Holdings Inc.
Address: La Motte Chambers
St. Helier
Jersey
JE1 1BJ
Channel Islands
Percentage Held: Approximate 100% indirect interest in Bluebottle LP,
yielding approximate 50% indirect interest in VMU
Citizenship: British Virgin Islands
Principal Business: Investment Company

Name: Bluebottle (No 3) Inc.
Address: La Motte Chambers
St. Helier
Jersey
JE1 1BJ
Channel Islands
Percentage Held: Approximate 100% indirect interest in Bluebottle USA
Holdings Inc., yielding approximate 50% indirect interest
in VMU
Citizenship: British Virgin Islands
Principal Business: Investment Company

Name: Virgin Group Investments Limited ("VGIL")
Address: Craigmuir Chambers
P.O. Box 71
Road Town
Tortola BVI
Percentage Held: Approximate 100% indirect interest in Bluebottle (No 3)
Inc., yielding approximate 50% indirect interest in VMU
Citizenship: British Virgin Islands
Principal Business: Investment Company

VGIL is owned by Sir Richard Branson and by a series of trusts the beneficiaries of which are Sir Richard Branson and his immediate family. Sir Richard Branson is Chairman of VGIL and can be reached at VGIL's address. He is a citizen of the United Kingdom.

VMU has interlocking officers or directors with certain affiliated foreign carriers to report. Specifically, Sir Richard Branson and Gordon McCallum, directors of VMU, are also directors of Virgin Mobile UK, Virgin Mobile Australia, and Virgin Mobile Asia.

- (i) VMU certifies that it is not a foreign carrier within the meaning of Section 63.09(d) of the Commission's Rules, 47 C.F.R. § 63.09(d). VMU certifies that it is affiliated with foreign carriers which are licensed to provide international telecommunications service in other countries.
- (j) VMU certifies that it is seeking to provide international telecommunications to several countries in which the Applicant has an affiliation with foreign carriers as described in Section 63.18(j) of the Commission's Rules. Attachment A lists Applicant's foreign affiliates.
- (k) The foreign affiliates listed in Attachment A are based in countries that are Members of the World Trade Organization ("WTO").
- (l) VMU proposes to resell the international switched services of unaffiliated and affiliated non-dominant U.S. carriers for the purpose of providing international telecommunications services to other countries, including to those in which it is affiliated with a non-dominant foreign carrier. None of VMU's affiliates identified in Attachment A is listed on the Commission's *List of Foreign Telecommunications Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets*, released June 18, 1999. In addition, these VMU foreign affiliates are relatively new market entrants offering services in competition with dominant foreign carriers and others. At this time, the market share of each of these VMU foreign affiliates is significantly less than a 50 percent market share in the international transport and local access markets in the respective countries where they operate. Moreover, these VMU foreign affiliates do not have the ability to exercise market power or discriminate against unaffiliated U.S. international carriers through the control of bottleneck services or facilities in the countries where they operate. Accordingly, VMU's foreign affiliates lack sufficient market power on these U.S. – international routes to affect competition adversely in the U.S. market. Therefore, VMU and its foreign affiliates should be presumptively classified as non-dominant carriers on all international routes.
- (m) As described in Section (l) above, VMU should be classified as non-dominant pursuant to Section 63.10(a) of the Commission's Rules, 47 C.F.R. § 63.10(a), because VMU is a reseller and has no affiliation with a dominant foreign carrier and is not a foreign carrier in a particular country to which it provides service.
- (n) VMU certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future unless otherwise authorized by the Commission.

- (o) VMU certifies, pursuant to Sections 1.2001 through 1.2003 of the Commission's Rules (implementing the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 3301), that no party to its application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
- (p) VMU qualifies for streamlined processing pursuant to Section 63.12(c)(1)(ii) of the Commission's Rules, 47 C.F.R. § 63.12(c)(1)(ii), because, as set forth above in Section (l), VMU qualifies for a presumption of non-dominance under Section 63.10(a) of the Commission's Rules.

IV. CONCLUSION

For the reasons stated above, Virgin Mobile USA, LLC respectfully submits that the public interest, convenience, and necessity would be furthered by a grant of this Section 214 Application.

Respectfully submitted,

By: s/
Helen E. Disenhaus
Jeanne W. Stockman
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007
(202) 424-7500 (telephone)
(202) 424-7643 (facsimile)

Counsel for Virgin Mobile USA, LLC

Dated: April 19, 2002

ATTACHMENT A – FOREIGN CARRIER AFFILIATES

Company (Country)

Sprint International Australia Pty. Limited (Australia)
Sprint International Communications Singapore Pte. Ltd. (Singapore)
Sprint International Holding Inc. Japan Branch (Japan)
SprintLink Belgium BVBA (Belgium)
SprintLink Denmark ApS (Denmark)
SprintLink France SAS (France)
SprintLink Germany GmbH (Germany)
SprintLink Italy S.r.l (Italy)
SprintLink Netherlands B.V. (Netherlands)
SprintLink UK Limited (United Kingdom)
Virgin Mobile Asia* (Singapore)
Virgin Mobile Australia* (Australia)
Virgin Mobile UK* (United Kingdom)

* Pursuant to the Commission's *Streamlining Order*, affiliated carriers owning only wireless mobile facilities may become authorized to provide international service on a non-dominant basis and take advantage of streamlined processing. *In the Matter of 1998 Biennial Regulatory Review – Review of International Common Carrier Regulations, Report and Order*, 14 FCC Rcd 4909, ¶ 29 (1999) (“*Streamlining Order*”). Here, these companies are mobile virtual network operators (“MVNOs”), acting as resellers and owning no wireless facilities of their own, and thus are entitled to non-dominant classification and treatment.

CERTIFICATION OF APPLICANT

On behalf of Virgin Mobile USA, LLC, I hereby certify that the statements in the foregoing Application for Section 214 authority are true, complete, and correct to the best of my knowledge and are made in good faith. In addition, in accordance with Section 1.2001-1.2003 of the Commission's Rules, 47 C.F.R. §§ 1.2001-1.2003, I hereby certify that no party to this Application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. § 853a.

VIRGIN MOBILE USA, LLC

By: _____ s/

Name: Peter Lurie

Title: Vice President, General Counsel

Date: April 19, 2002